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09/841,423	04/23/2001	John Carney	40004572-0003-002	5451
26263                      7590                      11/19/2009 SONNENSCHN NATH & ROSENTHAL LLP P.O. BOX 061080 WACKER DRIVE STATION, WILLIS TOWER CHICAGO, IL 60606-1080				
EXAMINER				
DUFFIELD, JEREMY S				
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2427				
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11/19/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

09/841,423

**Applicant(s)**

CARNEY ET AL.

**Examiner**

JEREMY DUFFIELD

**Art Unit**

2427

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 August 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 3-6, 8-11, 13 and 15-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-6, 8-11, 13 and 15-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/ISA-93)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1, 3-6, 8-11, 13, and 15-20 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Objections***

2. Claim 6 is objected to because of the following informalities: Lines 11-12, "on the second authorization key or" does not have sufficient antecedent basis for the claim. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 3, 6, 8-11, 13, and 15-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Kunkel (US 7,100,183).

Regarding claim 1, Kunkel teaches in an interactive television (TV) environment, a method for selectively providing personalized interactive TV content comprising (Col. 4, lines 33-64):

associating a first personalization data with a respective second personalization data, e.g. the demographics of a user are assigned a demographic code at the head-end (Col. 3, lines 35-50; Col. 3, line 59-Col. 4, line 23);

broadcasting the interactive TV content via a broadcast stream, wherein at least some of the interactive TV content is tagged content, the tagged content being marked by a tag comprising the first personalization data, i.e. content is tagged with demographic codes (Col. 3, lines 35-50), and

wherein the tagged content is personalized for display only by one or more receivers provided with the respective second personalization data, i.e. the receiver filters the received content so that only media that matches the demographic code of the user is allowed to be viewed (Col. 4, lines 33-46);

wherein the second personalization data are selectively broadcast to the one or more receivers via the broadcast stream, i.e. the demographic codes are transmitted to users that participate in the targeting service (Col. 3, line 59-Col. 4, line 24; Col. 6, lines 4-8),

such that at least some of the one or more receivers selectively output or make use of the tagged content based on the second personalization data (Col. 4, lines 33-64).

Regarding claim 3, Kunkel teaches selectively broadcasting the second personalization data to the one or ore receivers or to one of more network system nodes (Col. 3, line 59-Col. 4, line 24; Col. 6, lines 4-8)..

Regarding claim 6, claim is analyzed with respect to claim 1. Kunkel further teaches a personalization system distribution server, i.e. the head-end distributes the demographic codes (Col. 3, lines 14-49).

Regarding claim 8, claim is analyzed with respect to claim 3.

Regarding claim 9, Kunkel teaches a filtering module disposed within the one or more network system nodes or within the one or more receivers to check interactive TV content tags having the first personalization data for a match with the second personalization data selectively provided to the at least some of the one or more receivers or the one or more network system nodes (Col. 4, lines 33-46).

Regarding claim 10, Kunkel teaches the filtering module allows tagged interactive TV content to be displayed or passed along to a next network system node when the filtering module finds a match between tags having the first personalization data and the second personalization data selectively provided to

the at least some of the one or more receivers or the one or more network system nodes (Col. 4, line 46-Col. 5, line 6).

Regarding claim 11, claim is analyzed with respect to claims 1, 9, and 10.

Regarding claim 13, claim is analyzed with respect to claim 1.

Regarding claim 15, claim is analyzed with respect to claims 1, 9, and 10.

Regarding claim 16, claim is analyzed with respect to claim 6.

Regarding claim 17, claim is analyzed with respect to claim 9.

Regarding claim 18, claim is analyzed with respect to claim 10.

Regarding claim 19, Kunkel teaches a broadcaster or network operator determines which TV broadcast can include interactive content (Col. 3, lines 14-50).

Regarding claim 20, Kunkel teaches the broadcaster or network operator determines which personalization data to use to tag the interactive content (Col. 3, lines 14-50).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kunkel in view of Strubbe (US 5,469,206).

Regarding claim 4, Kunkel teaches all elements of claims 1 and 3.

Kunkel further teaches checking the tag comprising the first personalization data with the second personalization data selectively broadcast to the one or more receivers or the one or more network system nodes (Col. 4, lines 33-46).

Kunkel does not clearly teach the checking performed by the one or more receivers via use of a remote control or directly at the one or more network system nodes using a console application.

Strubbe teaches performing a checking routine at a receiver via use of a remote control wherein when a user presses a button on the remote, data stored in a user profile is compared to unfiltered data. When a matched is made, the matched data record is moved to a personalized database (Fig. 5; Col. 5, lines 50-63; Col. 6, lines 18-46).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kunkel to include the checking performed by the one or more receivers via use of a remote control or directly at the one or more network system nodes using a console application, using the known method of using a remote control to initiate a matching process, as taught by Strubbe, in combination with the targeted content distribution system of Kunkel for the purpose of providing a quick and easy method of determining whether any received data will interest a particular user.

Regarding claim 5, Kunkel in view of Strubbe teaches displaying the interactive TV content when the checking reveals a match between the first personalization data comprising the tag and the second personalization data selectively broadcast to the one or more receivers or the one or more network system nodes (Kunkel-Col. 4, lines 33-46).

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the



shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEREMY DUFFIELD whose telephone number is (571)270-1643. The examiner can normally be reached on Mon.-Thurs. 8:00 A.M.-5:30 P.M. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Beliveau can be reached on (571) 272-7343. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 09/841,423  
Art Unit: 2427

Page 9

16 November 2009  
JSD

/Scott Beliveau/  
Supervisory Patent Examiner, Art Unit 2427